



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

FWS–R8–ES–2021–N204; FXES11140800000-223-FF08ESMF00

**Proposed Programmatic Safe Harbor Agreement for Viticultural Activities on
Vineyards in the Santa Rosa Plain for the Sonoma County Population of California
Tiger Salamander, Sonoma County, California**

AGENCY: Fish and Wildlife Service, Interior

ACTION: Notice of availability; receipt of application.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from the North Bay Water District (applicant) for an enhancement of survival permit (permit) under the Endangered Species Act (ESA). The permit application includes a proposed safe harbor agreement (SHA) between the applicant and the Service for the federally endangered Sonoma County distinct population segment (DPS) of California tiger salamander (*Ambystoma californiense*) (Sonoma CTS or covered species). We have prepared a draft environmental action statement (EAS) for our preliminary determination that the SHA and permit decision may be eligible for categorical exclusion under the National Environmental Policy Act. We invite the public to review and comment on the permit application, draft SHA, and draft EAS.

DATES: Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Send comments to Ryan Olah, Coast Bay Division Chief, via U.S. Mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825, or via email at ryan_olah@fws.gov.

FOR FURTHER INFORMATION CONTACT: Ryan Olah, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414-6623; email: ryan_olah@fws.gov

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the document for review by contacting the individual named above.

Background

SHAs are intended to encourage private or other non-Federal property owners to implement beneficial conservation actions for species listed under the ESA. SHA permit holders are assured that they will not be subject to increased property use restrictions as a result of their proactive actions to benefit listed species. Incidental take of listed species is authorized under a permit pursuant to the provisions of section 10(a)(1)(A) of the ESA. For an applicant to receive a permit through an SHA, the applicant must submit an application form that includes the following:

- (1) The common and scientific names of the listed species for which the

applicant requests incidental take authorization;

- (2) A description of how incidental take of the listed species pursuant to the SHA is likely to occur, both as a result of management activities and as a result of the return to baseline; and
- (3) A description of how the SHA complies with the requirements of the Service's Safe Harbor policy (64 FR 32717, June 17, 1999).

For the Service to issue a permit, we must determine that:

- (1) The take of listed species will be incidental to an otherwise lawful activity and will be in accordance with the terms of the SHA;
- (2) The implementation of the terms of the SHA is reasonably expected to provide a net conservation benefit to the covered species by contributing to its recovery, and the SHA otherwise complies with the Service's Safe Harbor Policy;
- (3) The probable direct and indirect effects of any authorized take will not appreciably reduce the likelihood of survival and recovery in the wild of any listed species;
- (4) Implementation of the terms of the SHA is consistent with applicable Federal, State, and Tribal laws and regulations;
- (5) Implementation of the terms of the SHA will not be in conflict with any ongoing conservation or recovery programs for listed species covered by the permit; and
- (6) The applicant has shown capability for and commitment to implementing all of the terms of the SHA.

The Service's Safe Harbor Policy and Safe Harbor regulations (68 FR 53320, September 10, 2003; 69 FR 24084, May 3, 2004) provide important terms and concepts for developing SHAs. The Service's Safe Harbor policy and regulations are available at

<http://www.fws.gov/endangered/laws-policies/regulations-and-policies.html>. This SHA was developed by the Service and the applicant.

Proposed Action

The SHA is expected to promote the recovery of Sonoma CTS on non-Federal properties within Sonoma County. The proposed duration of the SHA and the associated enhancement of survival permit are 50 years. The proposed enhancement of survival permit would authorize the incidental taking of the covered species associated with the restoration, enhancement, and maintenance of suitable habitat for the covered species during routine and ongoing viticultural activities and the potential future return of any property included in the SHA to baseline conditions. Under this SHA, individual landowners (cooperators) may include their properties by entering into a cooperative agreement with the applicant. Each cooperative agreement will specify the restoration and/or enhancement, and management activities to be carried out on that specific property. All cooperative agreements will be reviewed by the Service to determine whether the proposed activities will result in a net conservation benefit for the covered species and meet all required standards of the Safe Harbor Policy. Upon Service approval, the applicant will issue a certificate of inclusion to the cooperator. Each certificate of inclusion will extend the incidental take coverage conferred by the enhancement of survival permit to the cooperator.

Baseline levels for the covered species will be determined by the cooperator first completing the baseline habitat worksheet (Exhibit B of the SHA), and then the Service will review each baseline determination prior to the applicant issuing a certificate of inclusion to the cooperator. The SHA also contains a monitoring component that requires the applicant to ensure that the cooperators are in compliance with the terms and

conditions of the SHA. Results of these monitoring efforts will be provided to the Service by the applicant in an annual report.

Upon approval of this SHA, and consistent with the Service's safe harbor policy, the Service would issue an enhancement of survival permit to the applicant. This permit would authorize cooperators issued a certificate of inclusion to take the covered species incidental to the implementation of the management activities specified in the SHA, incidental to other lawful uses of the property including normal, routine land management activities, and to return to baseline conditions if desired. An applicant would receive assurances under our "No Surprises" regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for all species included in the enhancement of survival permit. In addition to meeting other criteria, actions to be performed under an enhancement of survival permit must not jeopardize the existence of Federally listed fish, wildlife, or plants, and the Service is conducting a Section 7 consultation.

Species Information

The current range of the Sonoma CTS is in the Santa Rosa Plain in Sonoma County, California. The Sonoma CTS inhabits vernal pools and seasonal ponds, associated grassland, and oak savannah plant communities below 200 feet (60 meters). Sonoma CTS spend the majority of their lives underground in small mammal burrows in uplands, while ephemeral ponds play a critical role because they are necessary for breeding. Although Sonoma CTS are members of a family of "burrowing" salamanders, they are not known to create their own burrows. They depend on persistent small mammal (e.g., pocket gopher) activity to create, maintain, and sustain sufficient underground refugia. These underground burrow systems are critical during the drier months of the year, though juveniles and adults use them throughout the year to grow and

survive. Loss and fragmentation of habitat is a major threat to the species and the protection of breeding habitat and adjacent upland habitats is needed for their recovery.

National Environmental Policy Act Compliance

The development of the draft SHA and the proposed issuance of an enhancement of survival permit are Federal actions that trigger the need for compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). We have prepared a draft EAS to analyze the impacts of permit issuance and implementation of the SHA on the human environment in comparison to the no-action alternative. We have made a preliminary determination that issuing the permit and implementing the SHA would have minor or negligible impacts to the environment, and thus the proposed SHA and permit actions are eligible for categorical exclusion under NEPA. The basis for our preliminary determination is contained in the EAS, which is available for public review (see **ADDRESSES**).

Next Steps

We will evaluate the permit application, associated documents, and comments we receive to determine whether the permit application meets the requirements of the ESA, NEPA, and their implementing regulations. If we determine that all requirements are met, we will sign the proposed SHA and issue a permit under section 10(a)(1)(A) of the ESA to the applicant. We will not make our final decision on the permit application until after the end of the public comment period, and we will fully consider all comments we receive during the comment period.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that the entire comment, including your personal identifying information, may be made available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32), and NEPA (42 U.S.C. 4371 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Kim Turner,
Acting Field Supervisor,
Sacramento Fish and Wildlife Office,
Sacramento, California.